

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MELVIN L. BAILEY, JR.,

Plaintiff

v.

BROOKS,

Defendant

Case No. 3:20-cv-00651-MMD-WGC

ORDER

I. DISCUSSION

On November 20, 2020, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted an emergency motion. (ECF No. 1-1). Plaintiff has not filed a complaint or an application to proceed *in forma pauperis* in this matter.

Under Federal Rule of Civil Procedure 3, “[a] civil action is commenced by filing a complaint with the court.” Fed. R. Civ. P. 3. As such, the Court grants Plaintiff until **January 25, 2021** to submit a complaint to this Court.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$400 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and

(3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**.

The Court will grant Plaintiff a **one-time** opportunity to file a complaint and a fully

complete application to proceed *in forma pauperis* containing all three of the required documents, or in the alternative, pay the full \$400 filing fee for this action on or before **January 25, 2021**. Absent unusual circumstances, the Court will not grant any further extensions of time. If Plaintiff is unable to file a complaint and a fully complete application to proceed *in forma pauperis* with all three required documents or pay the full \$400 filing fee on or before **January 25, 2021**, this case will be subject to dismissal without prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to file a complaint and able to acquire all three of the documents needed to file a fully complete application to proceed *in forma pauperis* or pay the full \$400 filing fee.

A dismissal without prejudice means Plaintiff does not give up the right to refile the case with the Court, under a new case number, when Plaintiff is able to file a complaint and has all three documents needed to submit with an application to proceed *in forma pauperis*. Alternatively, Plaintiff may choose not to file an application to proceed *in forma pauperis* and instead pay the full filing fee of \$400 on or before **January 25, 2021** to proceed with this case.

II. CONCLUSION

For the foregoing reasons, IT IS ORDERED that Plaintiff will submit a complaint to this Court on or before **January 25, 2021**.

IT IS FURTHER ORDERED that the Clerk of the Court will send to Plaintiff the approved form for filing a 42 U.S.C. § 1983 complaint and instructions for the same. The Clerk of the Court will also send Plaintiff a copy of his emergency motion. (ECF No. 1-1).

IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well as the document entitled information and instructions for filing an *in forma pauperis* application.

IT IS FURTHER ORDERED that on or before **January 25, 2021**, Plaintiff will either pay the full \$400 filing fee for a civil action (which includes the \$350 filing fee and the \$50 administrative fee) or file with the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this

1 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two
2 signatures on page 3),

3 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
4 official (i.e. page 4 of this Court's approved form), and

5 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
6 **previous six-month period.**

7 IT IS FURTHER ORDERED that, if Plaintiff does not file a complaint and a fully
8 complete application to proceed *in forma pauperis* with all three documents or pay the full
9 \$400 filing fee for a civil action on or before **January 25, 2021**, this case will be subject
10 to dismissal without prejudice for Plaintiff to refile the case with the Court, under a new
11 case number, when Plaintiff is able to file a complaint and has all three documents needed
12 to file a complete application to proceed *in forma pauperis* or pays the full \$400 filing fee.

13 DATED: November 24, 2020

14 William G. Cobb

15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28